

108TH CONGRESS
1ST SESSION

H. R. 2903

To establish the Program Reform Commission to review unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, and to state the sense of the Congress that the Congress should promptly consider legislation that would make the changes in law necessary to implement the recommendations.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2003

Mr. SMITH of Washington (for himself, Mr. SHAYS, Mr. CASE, Mr. TIERNEY, Mr. CARTER, Mr. DUNCAN, and Mr. EMANUEL) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To establish the Program Reform Commission to review unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, and to state the sense of the Congress that the Congress should promptly consider legislation that would make the changes in law necessary to implement the recommendations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Program Reform Com-
3 mission Act of 2003”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) Federal programs which may have been en-
7 acted with a valid purpose can become obsolete, or
8 no longer in the public interest, making such pro-
9 grams unnecessary or undesired;

10 (2) it is unfair to force the United States tax-
11 payer to support unnecessary programs that do not
12 provide a substantial public benefit or serve the pub-
13 lic interest;

14 (3) the Congress has been unable to evaluate
15 methodically those Federal programs that are unfair
16 and unnecessary and require reform or elimination;
17 and

18 (4) a Commission to advise the Congress is es-
19 sential to a comprehensive review of such programs
20 and to the reform or elimination of such programs.

21 **SEC. 3. PURPOSE.**

22 The purpose of this Act is to establish a fair and de-
23 liberative process that will result in the timely identifica-
24 tion, review, and reform or elimination of programs of the
25 Federal Government.

1 **SEC. 4. DEFINITION.**

2 For purposes of this Act, the term “program”—

3 (1) except as provided in paragraph (2), means
4 a system of services or projects that is provided by
5 the Federal Government; and

6 (2) does not include a service or project that—

7 (A) exists for the purposes of research and
8 development in the broad public interest on the
9 basis of a peer reviewed or other open, competi-
10 tive, merit-based procedure; or

11 (B) primarily benefits public health, safety,
12 homeland security, the environment, or edu-
13 cation.

14 **SEC. 5. THE COMMISSION.**

15 (a) ESTABLISHMENT.—There is established an inde-
16 pendent commission to be known as the “Program Reform
17 Commission” (hereafter in this Act referred to as the
18 “Commission”).

19 (b) DUTIES.—The Commission shall—

20 (1) examine the programs of the Federal Gov-
21 ernment and identify programs that are no longer
22 necessary;

23 (2) review unnecessary programs; and

24 (3) submit the report required under section
25 6(c) to the Congress, making recommendations re-

1 garding the termination, modification, or retention
2 of programs.

3 (c) ADVISORY COMMITTEE.—The Commission shall
4 be considered an advisory committee within the meaning
5 of that term in the Federal Advisory Committee Act (5
6 U.S.C. App.).

7 (d) APPOINTMENT.—

8 (1) MEMBERS.—The members of the Commis-
9 sion—

10 (A) shall be appointed for the life of the
11 Commission; and

12 (B) shall be composed of 8 members, of
13 whom—

14 (i) 2 shall be appointed by the Speak-
15 er of the House of Representatives;

16 (ii) 2 shall be appointed by the minor-
17 ity leader of the House of Representatives;

18 (iii) 2 shall be appointed by the ma-
19 jority leader of the Senate, one of whom
20 shall be designated by the majority leader
21 to serve as a co-chair; and

22 (iv) 2 shall be appointed by the minor-
23 ity leader of the Senate, one of whom shall
24 be designated by the minority leader to
25 serve as a co-chair.

1 (2) CONSULTATION REQUIRED.—The Speaker
2 of the House of Representatives, the minority leader
3 of the House of Representatives, the majority leader
4 of the Senate, and the minority leader of the Senate
5 shall consult among themselves prior to the appoint-
6 ment of the members of the Commission in order to
7 achieve, to the maximum extent possible, fair and
8 equitable representation of various points of view
9 with respect to the matters to be studied by the
10 Commission under subsection (b).

11 (3) BACKGROUND.—The members shall rep-
12 resent a broad array of expertise covering, to the ex-
13 tent practical, all subject matter, programs, and
14 laws the Commission is likely to review.

15 (e) MEETINGS.—

16 (1) INITIAL MEETING.—No later than April 1,
17 2004, the Commission shall conduct its first meet-
18 ing.

19 (2) OPEN MEETINGS.—Each meeting of the
20 Commission shall be open to the public, except that
21 in cases in which classified information, trade se-
22 crets, or personnel matters are discussed, the co-
23 chairs may close the meeting. All proceedings, infor-
24 mation, and deliberations of the Commission shall be
25 available, upon request, to the Chairman and rank-

1 ing minority member of the relevant Committee of
2 the Congress having jurisdiction to report legislation
3 regarding the subject matter thereof.

4 (f) VACANCIES.—A vacancy on the Commission shall
5 be filled in the same manner as the original appointment.

6 (g) PAY AND TRAVEL EXPENSES.—

7 (1) PAY.—Notwithstanding section 7 of the
8 Federal Advisory Committee Act (5 App. U.S.C.),
9 each member of the Commission, other than the co-
10 chairs, shall be paid at a rate equal to the daily
11 equivalent of the minimum annual rate of basic pay
12 for level IV of the Executive Schedule under section
13 5315 of title 5, United States Code, for each day
14 (including travel time) during which the member is
15 engaged in the actual performance of duties vested
16 in the Commission.

17 (2) CHAIRMEN.—Notwithstanding section 7 of
18 the Federal Advisory Committee Act (5 App.
19 U.S.C.), the co-chairs shall be paid for each day re-
20 ferred to in paragraph (1) at a rate equal to the
21 daily payment of the minimum annual rate of basic
22 pay payable for level III of the Executive Schedule
23 under section 5314 of title 5, United States Code.

24 (3) TRAVEL EXPENSES.—Members of the Com-
25 mission shall receive travel expenses, including per

1 diem in lieu of subsistence, in accordance with sec-
2 tion 5702 and 5703 of title 5, United States Code.

3 (h) DIRECTOR OF STAFF.—

4 (1) QUALIFICATIONS.—The co-chairs shall ap-
5 point as Director an individual who has not, during
6 the 12 months preceding the date of such appoint-
7 ment, served in any of the entities or industries that
8 the Commission intends to review.

9 (2) PAY.—Notwithstanding section 7 of the
10 Federal Advisory Committee Act (5 App. U.S.C.),
11 the Director shall be paid at the rate of basic pay
12 payable for level IV of the Executive Schedule under
13 section 5315 of title 5, United States Code.

14 (3) REPORTS.—The Director shall submit peri-
15 odic reports on administrative and personnel matters
16 to the co-chairs of the Commission and the Chair-
17 man and ranking minority member of the Committee
18 on Governmental Affairs of the Senate and the Com-
19 mittee on Government Reform of the House of the
20 Representatives.

21 (i) STAFF.—

22 (1) ADDITIONAL PERSONNEL.—Subject to para-
23 graphs (2) and (4), the Director, with the approval
24 of the Commission, may appoint and fix the pay of
25 additional personnel.

1 (2) APPOINTMENTS.—The Director may make
2 such appointments without regard to the provisions
3 of title 5, United States Code, governing appoint-
4 ments in the competitive service, and any personnel
5 so appointed may be paid without regard to the pro-
6 visions of chapter 51 and subchapter III of chapter
7 53 of that title relating to classification and General
8 Schedule pay rates.

9 (3) LEGAL STAFF.—The Director shall appoint
10 under paragraph (2) such professional legal staff as
11 are necessary for the performance of the functions
12 of the Commission.

13 (4) DETAILEES.—Upon the request of the Di-
14 rector, the head of any Federal department or agen-
15 cy may detail any of the personnel of that depart-
16 ment or agency to the Commission to assist the
17 Commission in accordance with an agreement en-
18 tered into with the Commission.

19 (5) RESTRICTIONS ON PERSONNEL AND
20 DETAILEES.—The following restrictions shall apply
21 to personnel and detailees of the Commission:

22 (A) PERSONNEL.—No more than one-third
23 of the personnel detailed to the Commission
24 may be on detail from Federal agencies that

1 deal directly or indirectly with the Federal sub-
2 sidies the Commission intends to review.

3 (B) ANALYSTS.—No more than one-fifth of
4 the professional analysts of the Commission
5 may be persons detailed from a Federal agency
6 that deals directly or indirectly with the Federal
7 subsidies the Commission intends to review.

8 (C) LEAD ANALYST.—No person detailed
9 from a Federal agency to the Commission may
10 be assigned as the lead professional analyst
11 with respect to an entity or industry the Com-
12 mission intends to review if the person has been
13 involved in regulatory or policymaking decisions
14 affecting any such entity or industry in the 12
15 months preceding such assignment.

16 (D) DETAILEE.—A person may not be de-
17 tailed from a Federal agency to the Commission
18 if, within 12 months before the detail is to
19 begin, that person participated personally and
20 substantially in any matter within that par-
21 ticular agency concerning the preparation of
22 recommendations under this Act.

23 (E) FEDERAL OFFICER OR EMPLOYEE.—
24 No officer or employee of a Federal agency
25 may—

1 (i) prepare any report concerning the
2 effectiveness, fitness, or efficiency of the
3 performance on the staff of the Commis-
4 sion of any person detailed from a Federal
5 agency to that staff;

6 (ii) review the preparation of such re-
7 port; or

8 (iii) approve or disapprove such a re-
9 port.

10 (F) LIMITATION ON STAFF SIZE.—(i) Sub-
11 ject to clause (ii), there may not be more than
12 25 persons (including any detailees) on the
13 staff at any time.

14 (ii) The Commission may increase the
15 member of its personnel in excess of the limita-
16 tion under clause (i), 15 days after submitting
17 notification of such increase to the Committee
18 on Governmental Affairs of the Senate and the
19 Committee on Government Reform of the
20 House of Representatives.

21 (G) LIMITATION ON FEDERAL OFFICER.—
22 No member of a Federal agency and no em-
23 ployee of a Federal agency may serve as a
24 member of the Commission or as a paid mem-
25 ber of its staff.

1 (6) ASSISTANCE.—

2 (A) IN GENERAL.—The Comptroller Gen-
3 eral of the United States may provide assist-
4 ance, including the detailing of employees, to
5 the Commission in accordance with an agree-
6 ment entered into with the Commission.

7 (B) CONSULTATION.—The Commission
8 and the Comptroller General of the United
9 States shall consult with the Committee on
10 Governmental Affairs of the Senate and the
11 Committee on Government Reform of the
12 House of Representatives on the agreement re-
13 ferred to under subparagraph (A) before enter-
14 ing into such agreement.

15 (j) OTHER AUTHORITY.—

16 (1) EXPERTS AND CONSULTANTS.—The Com-
17 mission may procure by contract, to the extent funds
18 are available, the temporary or intermittent services
19 of experts or consultants pursuant to section 3109
20 of title 5, United States Code.

21 (2) LEASING.—The Commission may lease
22 space and acquire personal property to the extent
23 that funds are available.

24 (k) FUNDING.—

1 (1) COMMISSION.—There are authorized to be
2 appropriated to the Commission such funds as are
3 necessary to carry out its duties under this Act.

4 (2) COMPTROLLER GENERAL.—There are au-
5 thorized to be appropriated to the Comptroller Gen-
6 eral of the United States such funds as are nec-
7 essary to carry out the Comptroller General’s duties
8 under subsection (i)(5) and section 6(b)(5).

9 (l) TERMINATION.—The Commission shall terminate
10 on January 1, 2006.

11 **SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO**
12 **TERMINATE PROGRAMS.**

13 (a) AGENCY PLAN.—

14 (1) IN GENERAL.—The head of each Federal
15 department or agency shall include in the documents
16 submitted in support of the budget of the agency for
17 fiscal year 2005 a list identifying all programs ad-
18 ministered by that department or agency that the
19 head of the department or agency determines no
20 longer are necessary.

21 (2) CONTENTS.—Such list shall include—

22 (A) a detailed description of each program
23 in question;

1 (B) a statement identifying and detailing
2 the extent to which each service or project of
3 the program meets the provisions of section 4;

4 (C) a statement summarizing the legisla-
5 tive history and purpose of such services or
6 projects and the laws or policies directly or indi-
7 rectly giving rise to the need for such programs;
8 and

9 (D) a recommendation to the Commission
10 regarding the termination, modification, or re-
11 tention of each program identified in the list.

12 (b) REVIEW BY THE COMMISSION.—

13 (1) IN GENERAL.—At any time after the sub-
14 mission of the budget documents to the Congress,
15 the Commission shall conduct public hearings on the
16 termination, modification, or retention of programs,
17 including the recommendations included in the lists
18 required under subsection (a).

19 (2) TESTIMONY UNDER OATH.—All testimony
20 before the Commission at a public hearing conducted
21 under this paragraph shall be presented under oath.

22 (c) REPORT AND RECOMMENDATIONS OF COMMIS-
23 SION.—

24 (1) REPORT TO CONGRESS.—

1 (A) REQUIREMENT.—No later than March
2 31, 2005, the Commission shall submit a report
3 to the Congress containing the Commission’s
4 findings and recommendations for termination,
5 modification, or retention of each of the pro-
6 grams reviewed by the Commission.

7 (B) CONTENTS.—Such findings and rec-
8 ommendations shall specify—

9 (i) all actions, circumstances, and con-
10 siderations relating to or bearing upon the
11 recommendations; and

12 (ii) to the maximum extent prac-
13 ticable, the estimated effect of the rec-
14 ommendations upon the policies, laws, and
15 programs directly or indirectly affected by
16 the recommendations.

17 (C) SUPERMAJORITY REQUIREMENT.—The
18 Commission may not include a recommendation
19 in the report unless inclusion of the rec-
20 ommendation is approved by at least 6 mem-
21 bers of the Commission.

22 (2) INFORMATION AND JUSTIFICATIONS.—The
23 Commission shall include in its report information
24 specifying—

1 (A) the reasons and justifications for the
2 recommendations of the Commission;

3 (B) to the maximum extent practicable,
4 the estimated fiscal, economic, and budgetary
5 impact of accepting its recommendations;

6 (C) the amount of the projected savings re-
7 sulting from each of its recommendations;

8 (D) all actions, circumstances, and consid-
9 erations relating to or bearing upon the rec-
10 ommendations and to the maximum extent
11 practicable, the estimated effect of the rec-
12 ommendations upon the policies, laws and pro-
13 grams directly or indirectly affected by the rec-
14 ommendations; and

15 (E) the specific changes in Federal stat-
16 utes necessary to implement the recommenda-
17 tions, including citation of the relevant provi-
18 sions of existing law.

19 (3) SUBMISSION TO CONGRESS.—The report
20 submitted to the Congress under this subsection
21 shall be submitted to the Senate and the House of
22 Representatives on the same day, and shall be deliv-
23 ered to the Secretary of the Senate if the Senate is
24 not in session, and to the Clerk of the House of the
25 Representatives if the House is not in session.

1 (4) FEDERAL REGISTER.—The report sub-
2 mitted under this subsection shall be printed in the
3 first issue of the Federal Register after such submis-
4 sion.

5 (5) CHANGES IN AGENCY OR DEPARTMENT
6 RECOMMENDATIONS.—

7 (A) IN GENERAL.—Subject to the deadline
8 in paragraph (1) and to subparagraphs (B) and
9 (C) of this paragraph, in making its rec-
10 ommendations, the Commission may make
11 changes in any of the recommendations made
12 by a department or agency if the Commission
13 determines that such department or agency, in
14 treating any matter as an inequitable Federal
15 subsidy, deviated substantially from the provi-
16 sions of section 4.

17 (B) LIMITATION.—The Commission may
18 make a change in the recommendations made
19 by a department or agency, only if the Commis-
20 sion—

21 (i) makes the determination required
22 under subparagraph (B); and

23 (ii) conducts a public hearing on the
24 Commission's proposed changes.

1 (C) APPLICATION OF LIMITATION.—Sub-
2 paragraph (B) shall apply only to a change by
3 the Commission in a department or agency rec-
4 ommendation that would—

5 (i) add or delete a program to or
6 from, respectively, the list recommended
7 for termination;

8 (ii) add or delete a program to or
9 from, respectively, the list recommended
10 for modification; or

11 (iii) increase or decrease the extent of
12 a recommendation to modify a program,
13 included in a department's or agency's rec-
14 ommendation.

15 (D) JUSTIFICATION.—The Commission
16 shall explain and justify in the report submitted
17 to the Congress under this subsection any rec-
18 ommendation made by the Commission that is
19 different from a recommendation made by an
20 agency under subsection (a).

21 (6) PROVISION OF INFORMATION TO MEMBERS
22 OF CONGRESS.—After March 31, 2005, the Commis-
23 sion shall, upon request, promptly provide to any
24 Member of Congress the information used by the
25 Commission in making its recommendations.

1 (7) COMPTROLLER GENERAL.—The Comp-
2 troller General of the United States shall—

3 (A) assist the Commission, to the extent
4 requested, in the Commission’s review and anal-
5 ysis of the lists, statements, and recommenda-
6 tions made by departments and agencies under
7 subsection (a); and

8 (B) no later than 60 days after April 1,
9 2004, or the public release of the President’s
10 budget documents in 2004, whichever is earlier,
11 submit to the Congress and to the Commission
12 a report containing a detailed analysis of the
13 list, statements, and recommendations of each
14 department or agency.

15 **SEC. 7. CONGRESSIONAL ACTION ON COMMISSION REC-**
16 **COMMENDATIONS.**

17 It is the sense of the Congress that, following submis-
18 sion of the report of the Program Reform Commission
19 under section 6, the House of Representatives and the
20 Senate should promptly consider legislation that would
21 enact changes in Federal statutes necessary to implement
22 the recommendations of the Commission.

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